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From the INTERNATIONAL BUREAU

NOTICE INFORMING THE APPLICANT OF THE
COMMUNICATION OF THE INTERNATIONAL
APPLICATION TO THE DESIGNATED OFFICES

(PCT Rule 47.1(c), first sentence)

To:

LAPPIN, Mark, G.
McDermott, Will & Emery
28 State Street
Boston, MA 02109
ETATS-UNIS D'AMERIQUERECEIVED
DEC 02 2003

MWRE

Date of mailing (day/month/year) 11 November 2003 (11.11.03)		
Applicant's or agent's file reference EGAL-110PC 60962-011		IMPORTANT NOTICE
International application No. PCT/US03/14885	International filing date (day/month/year) 09 May 2003 (09.05.03)	Priority date (day/month/year) 09 May 2002 (09.05.02)
Applicant EGAN, Thomas, D.		

1. Notice is hereby given that the International Bureau has **communicated**, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this notice:

AU, AZ, BY, CH, CN, CO, DE, DZ, GH, HU, JP, KG, KP, KR, MD, MK, MZ, RU, TM, US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

AE, AG, AL, AM, AP, AT, BA, BB, BG, BR, BZ, CA, CR, CU, CZ, DK, DM, EA, EC, EE, EP, ES, FI, GB, GD, GE, GM, HR, ID, IL, IN, IS, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MG, MN, MW, MX, NO, NZ, OA, OM, PH, PL, PT, RO, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, UZ, VN, YU, ZA, ZM, ZW

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this notice is a copy of the international application as published by the International Bureau on 20 November 2003 (20.11.03) under No. 03 094785

4. **TIME LIMITS** for filing a demand for international preliminary examination and for entry into the national phase

The applicable time limit for entering the national phase will, **subject to what is said in the following paragraph**, be **30 MONTHS** from the priority date, not only in respect of any elected Office if a demand for international preliminary examination is filed before the expiration of **19 months** from the priority date, but also in respect of any designated Office, in the absence of filing of such demand, where Article 22(1) as modified with effect from 1 April 2002 applies in respect of that designated Office. For further details, see *PCT Gazette* No. 44/2001 of 1 November 2001, pages 19926, 19932 and 19934, as well as the *PCT Newsletter*, October and November 2001 and February 2002 issues.

In practice, **time limits other than the 30-month time limit** will continue to apply, for various periods of time, in respect of certain designated or elected Offices. For **regular updates on the applicable time limits** (20, 21, 30 or 31 months, or other time limit), Office by Office, refer to the *PCT Gazette*, the *PCT Newsletter* and the *PCT Applicant's Guide*, Volume II, National Chapters, all available from WIPO's Internet site, at <http://www.wipo.int/pct/en/index.html>.

For filing a **demand for international preliminary examination**, see the *PCT Applicant's Guide*, Volume I/A, Chapter IX. Only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination (at present, all PCT Contracting States are bound by Chapter II).

It is the applicant's **sole responsibility** to monitor all these time limits.

BEST AVAILABLE COPY

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Judith Zahra
Facsimile No. (41-22) 740.14.35	Telephone No. (41-22) 338.91.11

10/51138

DT05 PCT/PTO 15 OCT 2004

CERTIFICATE OF MAILING "EXPRESS MAIL" (37 CFR 1.10)

Docket No.

Applicant(s): Thomas D. Egan

EGAL-110 (66962-013)

Application No. Not Assigned Yet	Filing Date Herewith	Examiner Not Assigned Yet	Customer No. 23630	Group Art Unit Not Assigned Yet
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Invention: GASTRIC BYPASS PROSTHESIS

I hereby certify that the following correspondence:

Transmittal (2 pgs, duplicate), copy of International Publication, copy of International Preliminary Examination Report, Information Disclosure Statement (includes International Search Report, 9 cited references), executed Declaration and Power of Attorney, and return postcard.

(Identify type of correspondence)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

October 15, 2004
(Date)

Keiko Nakagawa

(Typed or Printed Name of Person Mailing Correspondence)

Keiko Nakagawa
(Signature of Person Mailing Correspondence)

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ORS

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TENT COOPERATION TREATY

RECEIVED
FEB 23 2004From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

MW&E

To:
MARK G. LAPPIN
MCDERMOTT, WILL & EMERY
28 STATE STREET
BOSTON, MA 02109

PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

19 FEB 2004

Applicant's or agent's file reference

EGAL-110PC

IMPORTANT NOTIFICATION

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US03/14885

09 May 2003 (09.05.2003)

09 May 2002 (09.05.2002)

Applicant

THOMAS D. EGAN

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703)305-3230

Form PCT/IPEA/416 (July 1992)

Authorized officer

McDermott, Corrine

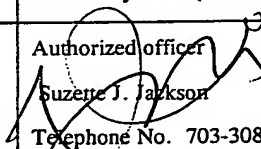
Telephone No. 703-308-0858

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference EGAL-110PC	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US03/14885	International filing date (<i>day/month/year</i>) 09 May 2003 (09.05.2003)	Priority date (<i>day/month/year</i>) 09 May 2002 (09.05.2002)
International Patent Classification (IPC) or national classification and IPC IPC(7): A61F 2/00; 2/04 and US Cl.: 623/23.65; 600/29; 607/40		
Applicant THOMAS D. EGAN		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>5</u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 		
Date of submission of the demand 09 December 2003 (09.12.2003)	Date of completion of this report 26 January 2004 (26.01.2004)	
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703)305-3230	Authorized officer  Suzette J. Jackson Telephone No. 703-308-0858	

Form PCT/IPEA/409 (cover sheet)(July 1998)

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed.
- ☒ the description:
pages 1-21 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the claims:
pages 22-29 as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☒ the drawings:
pages 1-9 as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.
- ☐ the sequence listing part of the description:
pages NONE as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages none
- ☒ the claims, Nos. none
- ☒ the drawings, sheets/fig none

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. STATEMENT**

Novelty (N)	Claims <u>1-50</u>	YES
	Claims _____	NO
Inventive Step (IS)	Claims <u>1-50</u>	YES
	Claims _____	NO
Industrial Applicability (IA)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1-50 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a device for treatment of obesity with a large outer boundary of an annular element which is adapted to be attached to an inner wall of a stomach such that the annular element divides the stomach into two chambers, an esophagus end chamber close to the esophagus and a pylorus end close to the pylorus of the patient; and an elongated flexible tube extending between a proximal end and distal end of a tube being connected to a small inner boundary of the annular element to form a continuous passageway through a region interior to the small inner boundary lumen.

----- NEW CITATIONS -----

NONE

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